

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN MCQUILKIN,

Defendant.

CRIMINAL ACTION

No. 94-356-02

MEMORANDUM

_____ On November 4, 1994, defendant John McQuilkin pleaded guilty to various charges related to the distribution of methamphetamine. Dkt. 26. He was later sentenced to 60 months imprisonment and 6 years of supervised release. Dkt. 45. It is undisputed that, as a result of his conviction, McQuilkin is prohibited from holding certain positions—including, inter alia, positions of authority within labor organizations—for a period of 13 years following his release from imprisonment. See 29 U.S.C. § 504. McQuilkin was released on April 9, 1999, and his disability thus remains in effect until April 9, 2012.

On July 27, 2010, McQuilkin filed a pro se Motion for Relief by Reduction of the Length of Disability, dkt. 144, which the court construes as a motion, under § 504, to “set[] a lesser period” of disability. The statute permits such a reduction prior to the expiration of the 13-year bar if the sentencing judge “determines that such person’s service in any capacity referred to in [the statute] would not be contrary to the purposes of [the Labor-Management Reporting and

Disclosure Act].” The court ordered the government to respond to McQuilkin’s motion, *dk.* 145, and, on January 31, 2011, the government informed the court that it takes no position on McQuilkin’s motion.

Before making a determination of McQuilkin’s eligibility for a reduction of disability, the court is required by statute to hold a hearing. *See* 29 U.S.C. § 504. The burden will be on McQuilkin to demonstrate that the holding of a covered labor organization position would not be “contrary to the purposes” of the Labor-Management Reporting and Disclosure Act (LMRDA). That purpose is, as a general matter, to ensure that labor management officials “adhere to the highest standards of responsibility and ethical conduct in administering the affairs of their organizations.” LMRDA, §2(a), 29 U.S.C. § 401(a). The contours of that hearing are addressed in the accompanying order.